

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA

KENNETH RAY BLACK,  
PLAINTIFF,

vs

CASE NO. 19-cv-101-KEW

DYLAN SIMMONS, JAMES HAMLIN,  
DILLON SWAIM, BRYAN WILKINS,  
and JARAD FORBES,

DEFENDANTS.

**COMPLAINT**  
**(Jury Trial Demanded)**

COMES NOW the Plaintiff, KENNETH RAY BLACK, and for his cause of action  
against the Defendants alleges and states as follows:

**JURISDICTIONAL STATEMENT**

1. The Plaintiff, Kenneth Ray Black, is a resident of Muskogee County, State of Oklahoma.
2. The Defendants are each believed to be residents of Muskogee County, State of Oklahoma.
3. That at all times alleged herein Defendants were officers and/or law enforcement personnel employed by the City of Muskogee, a municipal corporation located in Muskogee County, as police officers and at all times were acting under color of state law.
4. That all actions complained of occurred in Muskogee County which is within the jurisdiction of the United States District Court for the Eastern District of Oklahoma and venue and jurisdiction are properly before this Court.
5. That more specifically, Plaintiff's claim is brought pursuant to Title 42 U.S.C. § 1983 and

is based on alleged violations of his rights as guaranteed by the United States Constitution and its Amendments.

### **STATEMENT OF THE CASE**

6. That on or about April 2, 2017 at approximately 2:30 a.m. Defendants were dispatched to the Plaintiff's residence.

7. The Plaintiff, who is physically disabled, exited his home in response to the Defendants' orders and as he stood outside his home was supporting himself with a cane and was holding a flashlight.

8. In response to the Defendants' orders the Plaintiff dropped his cane and flashlight to the ground and was then attacked by the Defendants who used unreasonable and/or excessive force including but not limited to repeatedly shooting him with a taser and striking his face, head and body with their fists, feet, knees, and/or elbows and flashlights while handcuffing him.

9. The seizure and restraint of the Plaintiff was unreasonable and the force used upon him by the Defendants was excessive and wrongful.

### **CAUSES OF ACTION**

#### **I. 42 U.S.C. 1983**

10. The United States Constitution guarantees the Plaintiff the right to be free from unreasonable seizures by police officers acting under color of law.

11. The seizure of the Plaintiff by the Defendants acting in concert, was without probable cause or warrant or exigent circumstance, and was unreasonable in violation of the Plaintiff's rights guaranteed by the United States Constitution.

12. The force used by Defendants on the Plaintiff, who had committed no crimes and was

unarmed, constituted an unreasonable and excessive use of force in violation of his rights guaranteed by the United States Constitution.

13. That each individual Defendant officers acted under color of law as defined by statute during the Constitutional deprivations of the Plaintiff.

14. That the Plaintiff suffered harm and that each Defendant is liable to Plaintiff for such damage and injuries as well as the Constitutional deprivations suffered by the Plaintiff.

15. As a result of the constitutional deprivations suffered by the Plaintiff at the hands of Defendants, Plaintiff is entitled to recover damages from each Defendant as follows, but not limited to:

- a. Medical expenses, past, present and future
- b. Mental anguish and pain, past, present and future
- c. Emotional distress, past, present and future
- d. Physical and mental pain and suffering, past, present and future,
- e. Deprivation of Constitutional rights
- f. Attorneys fees and costs

16. Further, Plaintiff is entitled to an award of punitive damages for the conduct of each Defendant in an amount that will sufficiently punish the Defendants for their conduct, deter them from such future wrongful conduct and/or make them an example.

WHEREFORE, premises considered, Plaintiff prays that this Court grant him judgment in excess of \$75,000.00 and any other relief deemed appropriate by this Honorable Court.

Respectfully Submitted,

By: /s/ Jeremy Beaver  
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ATTORNEY LIEN CLAIMED

STATE OF OKLAHOMA )  
 ) SS.  
COUNTY OF Pittsburg )

Ken Black, of legal age and being first duly sworn  
upon oath states that he is the Plaintiff above named; that he has read  
the above and foregoing Petition / Complaint, and  
that the matters and things contained therein are true and correct to his best knowledge and  
belief.

Ken Black

SUBSCRIBED AND SWORN to before me this 26 day of March, 2019.

Cindy R. Sadler  
NOTARY PUBLIC

